IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7797 of 2002

For Approval and Signature:

Hon'ble THE CHIEF JUSTICE MR. D.S.SINHA
and
Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

S.A. MORI
Versus
STATE OF GUJARAT

Appearance:
MS MAMTA R VYAS for Petitioners

CORAM : THE CHIEF JUSTICE MR. D.S.SINHA
and
MR.JUSTICE J.M.PANCHAL

Date of decision: 19/08/2002

ORAL JUDGEMENT

(Per : THE CHIEF JUSTICE MR. D.S.SINHA)

#. Heard Mrs.M.R.Vyas, learned counsel appearing for the petitioners.

#. By means of instant Special Civil Application in the nature of Public Interest Litigation, the petitioners draw the attention of the Court towards the illegalities in the appointments of respondent Nos.9 to 28 in the year 1999. They assert that the appointments were made contrary to the provisions of the Bombay Provincial Municipal Corporations Act, 1949, hereinafter called "the Act", under the influence of political persons and for other extraneous considerations. The petitioners further point out that despite the fact that the appointments of respondent Nos.9 to 28 were illegal, Bhavnagar Municipal Corporation, Bhavnagar, the employer, hereinafter called "the Corporation", had been trying hard, through Resolutions submitted to the State Government of Gujarat, for regularization of their services. In the backdrop of these facts, the petitioners urge that this Court may issue appropriate remedial writ, order or direction.

#. From the averments made in the petition itself, it is absolutely clear that the State Government of Gujarat had already taken note of the alleged irregularities in the appointments of respondent Nos.9 to 28, and invoking power under sub-section (1) of Section 451 of the Act, had prohibited the Corporation from implementing the Resolution regarding regularization of the appointments of respondent Nos.9 to 28.

#. The petitioners submit that despite the order stopping the implementation of the Resolution for regularization of the appointments of respondent Nos.9 to 28, the Corporation has again passed a Resolution for reconsideration of the matter by the State Government of Gujarat which is illegal.

#. It may be recalled that the appointments of respondent Nos.9 to 28 were made by the Corporation in exercise of power conferred upon it by sub-section (2) of Section 53 of the Act, which was subject to the provisions of Section 451 of the Act, and in exercise of power under sub-section (1) of Section 451 of the Act, the State Government of Gujarat had already passed an order stopping implementation of the Resolution for regularization of the appointments of respondent Nos.9 to 28.

#. However, under sub-section (3) of Section 451 of the Act, the State Government of Gujarat may, at any time, on representation of the Corporation or otherwise, revise, modify or revoke an order passed by it under sub-section (1) of Section 451 of the Act. The Court has no reason

to doubt that as and when any representation is made to it by the Corporation for regularization of the appointments of respondent Nos.9 to 28, same shall be dealt with by the State Government of Gujarat in accordance with law.

#. Subject to what has been said above, in the opinion of the Court, there is no occasion for intervention by this Court in exercise of its special and extra-ordinary jurisdiction under Article 226 of the Constitution of India. The petition is misconceived. It is, therefore, dismissed.

(D.S.Sinha, C.J.)

(J.M.Panchal, J.)

(sunil)